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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,126	12/12/2003	Dennis Peters	PETERS 1.2-2	1907

7590 03/30/2005

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EXAMINER
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THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p>Office Action Summary</p>	Application No.	Applicant(s)	
	10/735,126	PETERS, DENNIS	
	Examiner	Art Unit	
	Hugh B. Thompson II	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 3-6 and 10-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, lines 4, 5, 15, and 15, the applicant has positively recited the combination of the ladder assembly, the vertical walls of the building, and the building support members. It is suggested the applicant use the phrase “adapted to” when referring to unclaimed elements. Claims 2-4, 6, 10, 13, and 16 recite similar ambiguities with respect to structural members, building supports, floor joists, wall studs, wall, building floor, etc.

With respect to claim 2, line 3, “through one the opening in side of the enclosure and structural member”, appears to be grammatically incorrect.

With respect to claims 1-15, line 1, “escape ladder” should read --escape ladder assembly--.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1, 2, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Strohmeyer #4,127,184. Strohmeyer, as best seen in Figures 1 and 2, discloses a building wall supported escape ladder assembly 10 comprised of enclosure 26, enclosure sidewalls 30, 32, support rod 24 that extends through the sidewalls, removable front portion/cover panel 60, latch assembly 80, 82, collapsible ladder 38 that is supported by the support rod, flexible rail/support members 42, and ladder support hooks 22.

Claims 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Aarons #433,061. Aarons discloses, as recited in lines 13-50, an escape assembly comprised of support rod "E" that is spaced and secured between studs/timbers "b", rod fasteners "e", "f", "F", enclosure/opening "D", ladder assembly "I", "J", and the method by which the escape assembly is secured and used.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strohmeyer as applied to claims 1, 2, 7, and 8 above, and further in view of Jacobson #5,971,105. Strohmeyer fails to disclose the cover secured to the enclosure by means of VELCRO. Jacobson, as recited in column 4, lines 55-58, teaches the utility of an escape assembly enclosure 40 having a cover panel 58 secured thereto by means of VELCRO, so as to allow easy removal of the cover panel

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from the enclosure 40 when so desired. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the escape assembly of Strohmeyer with a cover secured to an enclosure by VELCRO, as taught by Jacobson, so as to allow easy removal of the cover panel from the enclosure when so desired.

### ***Allowable Subject Matter***

Claims 3-6, and 11-15, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim, any intervening claims, and in addition to claim 10, rewritten to overcome the Section 112 ambiguities as noted above. The primary reason for the allowance of claim 3 is the inclusion of a releasable lock that holds the support rod in the enclosure. For claim 6, it is the inclusion of an L-shaped enclosure having a lower portion that is adapted to fit between floor joist and an upper portion that is adapted to fit between wall studs. For claim 10 it is the inclusion of an axial securing means, the securing mean defined as threaded nuts that thread onto the support rod to secure the support rod to adjacent studs. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.


### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Martin et al #6,135,239, Shupp, Jr. #6,129,178, Matisi #5,628,380, Krumal #5,467,841, Longenecker #4,445,59, Driskell #4,079,811, Boscarino, Jr. #3,344,886, and Rumsey GB#2,156,888 are cited to teach ladder escape assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102 (571-272-6837 as of 4-7-05). The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

March 15, 2005